

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION
COMMITTEE ON BUSINESS AND INDUSTRY**

Call to Order: By **CHAIRMAN JOHN HERTEL**, on March 25, 1999 at 8:00 A.M., in Room 410 Capitol.

ROLL CALL

Members Present:

Sen. John Hertel, Chairman (R)
Sen. Mike Sprague, Vice Chairman (R)
Sen. Dale Berry (R)
Sen. Vicki Cocchiarella (D)
Sen. Bea McCarthy (D)
Sen. Glenn Roush (D)
Sen. Fred Thomas (R)

Members Excused: None.

Members Absent: None.

Staff Present: Bart Campbell, Legislative Branch
Mary Gay Wells, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 641, 3/10/1999
HB 558, 3/10/1999
HB 581, 3/10/1999
Executive Action: HB 641; HB 558; 581

{Tape : 1; Side : A; Approx. Time Counter : 0}

HEARING ON HB 641

Sponsor: REP. CAROLYN SQUIRES, HD 68, MISSOULA

Proponents: None

Opponents: None

Opening Statement by Sponsor:

REP. CAROLYN SQUIRES, HD 68, MISSOULA. I bring you **HB 641**. In the title you can see what the bill is doing. In the last session, I carried a bill that asked for the endorsement to be placed on a plumber's license if and when they passed the medical gas piping course. You may well understand that installing medical gas piping in hospitals that pass oxygen, etc. into the surgery facilities requires a certain expertise. There must be some training courses to be able to do these kinds of pipings. In the process, that piece of legislation was passed. I thought that an inspection process included in that bill. Unfortunately, when we had a meeting with the licensing board, what I thought was in the bill, was not. That is why I am bringing this bill to you today to correct that portion of the previous bill. This is a committee bill and I became the sponsor.

It is an act clarifying the enforcement of laws and rules pertaining to medical gas piping; requiring the Department of Commerce to adopt certain provisions of a National Fire Protection Association code. That is very important as you will see on line 29, there is an amendment that deals with the publication NFPA 99C. Medical gas is included in that section. During the interim in a rules hearing, Chapter 13 was excluded and that was some of the rationale that was given to me as to why medical gas inspections could not be included. We amended that particular portion back into the law so the Building Codes will have the capability to do that. The bill also mandates that state and local compliance officers request proof of endorsement for persons performing medical gas piping system work at a job site. In other words, anyone working on a job site at a hospital, doctors' clinics, etc. can be required to prove their endorsement to inspectors at both the state and local level. If they don't prove their endorsement, then it is the responsibility of those individuals to report to the Board of Plumbers that they are not in compliance.

I do have an amendment **EXHIBIT (bus67a01)**. It puts the word "plumbing" into line 30, on page 1. The reason to put this word in is that there might be some effort to put these people under the mechanical section. The mechanical section does not deal with plumbing and would then be under air conditioning, ventilation, etc. which is not the same thing. It is important that this be done well for all concerned. It is important also

for a plumber to have this documentation on his license. Thank you.

Proponents' Testimony: None

Opponents' Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

REP. SQUIRES closed. I would like to submit a letter **EXHIBIT (bus67a02)** from Duane Steinmetz, Board Chairman of the Professional and Occupational Licensing Division. He refers to the amendment and the rationale for it. If fees are needed that can be done.

SEN. COCCHIARELLA will carry the bill on the Senate Floor.

{Tape : 1; Side : A; Approx. Time Counter : 5.9}

HEARING ON HB 558

Sponsor: REP. ROD BITNEY, HD 77 KALISPELL

Proponents: Jerry Lendorf, MT Consumer Finance Assoc.
Dennis Green, President, Budget Finance; President,
MT Consumer Finance Assoc.
Don Hutchinson, Banking & Financial Division,
Department of Commerce

Opponents: Craig Sweet, MT PIRG

Opening Statement by Sponsor:

I bring a short bill for you today. **HB 558** makes several changes to the Montana Consumer Loan Act. The first change is on page 1, lines 14 and 15. The words "or advances of money on credit" are deleted from the existing law. The reason for this change is to make it clear that the Consumer Loan Act applies only to consumer loans. Section 2, page 4 places certain limits on prepayment charges that may be made by consumer loan companies. The limits decrease over the period of the loan. Section 3 allows a bad check charge in the amount of \$25. Section 4, permits a late fee charge in the amount of 5% of the amount past due to be charged in the case of open end loans.

Proponents' Testimony:

Jerry Lendorf, MT Consumer Finance Assoc. In addition to limiting prepayment charges, it still cites three situations in which prepayment charges may not be charged. (1) If you have ever sold a home, you have a "due on sale" clause. (2) This is where prepayment is made as a result of a loss and would collect insurance for that loss or by a credit life insurance policy. (3) This is for a refinancing situation with the same institution. In addition to that, it allows a bad check charge of \$25 and would allow a 5% charge to be made in case of late payments on open end loans. That is the same charge that is now made on closed end loans. Thank you.

Dennis Green, President, Budget Finance; President, MT Consumer Finance Assoc. I would like to add my support to this bill. Thank you.

Don Hutchinson, Banking & Financial Division, Department of Commerce. We have worked with the industry and agree with and support this bill. Thank you.

Opponents' Testimony:

Craig Sweet, MT PIRG. We appreciate the fact that this bill does set some limits on prepayment charges. I do understand that there are higher prepayment charges being used. However, we think it is anti-consumer and does penalize a consumer who does prepay a loan. We urge a do not pass.

{Tape : 1; Side : A; Approx. Time Counter : 9.7}

Questions from Committee Members and Responses:

SEN. SPRAGUE asked **Mr. Sweet** to explain his previous statement. **Mr. Sweet** said that he was talking about Section 2, (8) concerning prepayment and the charges that can be assessed. He was concerned that this might be an added burden to the consumer. But it does set some limits. He was not sure exactly what the bill did.

SEN. SPRAGUE asked **Don Hutchinson** if this bill were authorizing an increase in the minimum payment that can be charged to handle the loan even if it is paid off early? **Mr. Hutchinson** said the original act that preceded this bill allowed lending companies to charge for prepayment of loans. There was no provision outlined in that act concerning how much they could charge for prepayments. We asked the industry to define those charges. The

charges are on a decreasing scale, i.e. 10% for prepayment during the first 6 months; 7% for prepayment after 6 months and before 18 months; and 3.5% for prepayment after 18 months but before 61 months after the date of the loan. And there would be nothing after five years or 61 months. This would be on the then-outstanding principal balance of the loan.

SEN. SPRAGUE asked if the consumer would know, up front, what the charges would be if they prepaid their loan early. **Mr.**

Hutchinson said that it would be in the loan papers and disclosed again when the note is signed. **SEN. SPRAGUE** said that the bill would make everyone charge the same thing and not float up and down at their own discretion. **Mr. Hutchinson** said "yes" and it is capped. If a person refinances with the original lender, that lender is not allowed to charge a prepayment fee.

SEN. SPRAGUE asked about the \$25 charge for a check that is dishonored for any reason. **Mr. Hutchinson** said there are already some who charge \$25 for a bad check.

SEN. COCCHIARELLA asked who the licensee is. **Mr. Hutchinson** said they are consumer finance lenders. They are required to be licensed with the Department of Commerce. **SEN. COCCHIARELLA** asked if it included General Motors Acceptance Corporation (GMAC) financing which is out of state? **Mr. Hutchinson** said "yes".

SEN. COCCHIARELLA wondered why a car dealer would not make a lower deal for cash but would if the consumer would take out a loan to pay for the car. Would this bill help these companies to charge a prepayment fee? **Mr. Hutchinson** said a person always has the choice to pay in cash. In the situation you outlined, that person is being conned for lack of a better word. People are paid to write contracts and add insurance, etc. But if a person does sign up for this and goes back and pays it off early, they could be subject to a prepayment penalty. **SEN. COCCHIARELLA** gave another example of borrowing money for a day and still having to pay a prepayment penalty. **Mr. Lendorf** said that is correct. Under current law, though, there are no caps in place and that lending company can charge whatever they want for a prepayment. Also, when a contract is written, there are costs involved and a prepayment charge covers those costs. If you kill this bill, then there are no restrictions on what can be charged. Right now, there is someone out there charging a straight 10% in all situations. This bill would stop that.

SEN. HERTEL asked if all contracts have prepayment clauses? **Mr. Lendorf** said just about all contracts have a provision with regard to prepayment.

{Tape : 1; Side : A; Approx. Time Counter : 20.9}

SEN. BERRY asked what is a consumer loan. **Mr. Lendorf** replied personal, family and household is but consumer loan companies make, what they call, unregulated loans. There is a federal law that doesn't permit the state to regulate housing loans, first residential mortgage, etc. How they get jurisdiction in that area is rather tenuous. They tie it to the credit insurance one buys at the time. There is some federal relationship to that.

SEN. BERRY asked if savings and loans, that do open end business loans, would fall in this category. **Mr. Lendorf** said savings and loans are regulated under other statutes and this bill would not affect them.

SEN. HERTEL said that with the word "may", companies then may or may not charge a prepayment penalty, is that correct? **Mr. Lendorf** said "yes". The hard part is when you put ceilings in. In certain situations, more is justified. Right now, the market regulates it. Some could charge 25% if they wanted to. **SEN. HERTEL** then stated that this bill is putting a cap on the charge.

SEN. COCCHIARELLA asked how many companies charge a fee for prepayment. **Mr. Lendorf** said Mr. Green's company, Budget Finance, doesn't charge a fee for prepayment. Beneficial does not charge for prepayment. Companies like Norwest do.

SEN. COCCHIARELLA asked if this bill passes will he start charging a fee for prepayment. **Mr. Green** said he didn't think so. But, again, under present law he could charge a fee and charge whatever he felt the market would bear. The purpose of this bill is to cap that charge.

SEN. SPRAGUE asked if this bill would affect the deferred deposit loan companies. **Mr. Hutchinson** said that in this session there was a bill to license those people. They are not under this bill.

Closing by Sponsor:

REP. BITNEY closed. Thank you for a good hearing. In the market place there are many different types of loans and programs available. The consumer does have an opportunity to check around. This bill is for the consumer. We are concerned with Mr. Sweet's concerns, but I think they have been addressed. As was mentioned, there are no limits under current law. This will establish some limits and also puts it on a declining scale based on the longevity of the loan. It is just a percentage of the payoff of the balance of the loan. **SEN. HERTEL** will carry the bill on the Senate Floor.

HEARING ON HB 581

Sponsor: REP. JOHN COBB, HD 50, AUGUSTA

Proponents: None

Opponents: None

Opening Statement by Sponsor:

REP. JOHN COBB, HD 50, AUGUSTA. This bill revises the Montana Small Business Purchasing Act. It is an Act that has been around since the 1930's where the Department of State Government could set aside for small businesses some business they could bid on. It has not been used for years. Some reasons why the Departments have not used it is because of the bidding process. They have to put a notice in the paper. They must get bids from at least three small businesses. They just have never done it. I took off the notice to newspapers and the Department can set aside some business for small Montana businesses, etc. The language is cleaned up. This bill will continue to the year 2003. If the bill is not used or working by that time, it will go out of existence at that time.

Proponents' Testimony: None

Opponents' Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

REP. COBB closed. **SEN. COCCHIARELLA** will carry the bill on the Senate Floor.

{Tape : 1; Side : A; Approx. Time Counter : 32}

EXECUTIVE ACTION ON HB 558

Motion/Vote: **SEN. BERRY** moved that HB 558 BE CONCURRED IN.
Motion carried 6-1 with SEN. COCCHIARELLA voting no.

SEN. HERTEL will carry the bill on the Senate Floor.

EXECUTIVE ACTION ON HB 581

Motion/Vote: SEN. ROUSH moved that HB 581 BE CONCURRED IN.
Motion carried unanimously. 7-0

SEN. COCCHIARELLA will carry the bill on the Senate Floor.

EXECUTIVE ACTION ON HB 641

Motion: SEN. SPRAGUE moved that HB 641 BE CONCURRED IN.

Discussion: Motion/Vote: SEN. SPRAGUE moved that HB 641 BE
AMENDED. Motion carried unanimously. 7-0

Motion/Vote: SEN. SPRAGUE moved that HB 641 BE CONCURRED IN AS
AMENDED. Motion carried unanimously. 7-0

SEN. COCCHIARELLA will carry the bill on the Senate Floor.

ADJOURNMENT

Adjournment: 8:45 A.M.

SEN. JOHN HERTEL, Chairman

MARY GAY WELLS, Secretary

JH/MGW

EXHIBIT (bus67aad)